That concludes the matters which are in issue in this appeal. But reference must be made to Ground 2 (i) of the Grounds of Appeal; although it is not now suggested that the Court below was not properly constituted, and Mr. Marshall was given leave to amend this ground accordingly. It is however suggested that, despite the wording of Rule 26 (2), the spirit of that rule will not be complied with unless, in the case of a coastal navigation casualty, assessors with special knowledge of coastal navigation (as opposed to deep sea navigation) are appointed. And this Court was invited to make some observations which would be in the nature of a recommendation that this course should be adopted as the practice. This Court has had the advantage of discussing this matter with the Assessors, and apart from the fact that such a recommendation would clearly be outside the scope of the issues which are before us, we are not satisfied that in practice the difference in experience between deep sea navigation and coastal navigation is of such importance as to make any such recommendation necessary.

The Order of the Court below is upheld, and the appeal is dismissed with costs.

Commander R. K. Hudson R. N. and **Captain D. W. Clark** — We agree.

Appeal Dismissed.

LIM CHEW KEE v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.) May 9, 1947]

Evidence Ordinance, Section 27 — Evidence only admissible if it leads to discovery of a fact.

In this case the appellant appealed against his conviction for housebreaking by night. The evidence showed that the premises of the complainant were broken into and a large quantity of cigarettes stolen. Six hours later the appellant was found with a considerable quantity of cigarettes of the same brand. Evidence was further given that the appellant gave information to the police and pointed out the house of the complainant.

Held, (1) that the evidence of possession in this case was an insufficient basis for conviction; (2) that the evidence of the accused having pointed out the house of the complainant was not admissible under Section 27 of the Evidence Ordinance as it did not lead to the discovery of any fact.

MAGISTRATE'S APPEAL.

A. P. Rajah for Appellant.

C. H. Butterfield for Respondent.

Murray-Aynsley, C. J. :— In this case the appellant was charged with housebreaking by night and convicted.

The evidence showed that the premises of the complainant were broken into and a large quantity of cigarettes stolen. Six hours later the appellant was found with a considerable quantity of cigarettes of the same brand. Evidence was further given that the appellant gave information to the police and pointed out the house of the complainant.

It appears to me that the evidence of possession was an insufficient basis for a conviction and that the other evidence would only be admissible under section 27 of the Evidence Ordinance if it led to the discovery of something which it did not.

The appeal must be allowed and the conviction quashed.

Appeal Allowed.